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SUBJ: MEDIA GROUPS CONCERNED AS ARGENTINE GOVERNMENT PUSHES NEW
BROADCAST LAW

REF: Buenos Aires 531

11. (SBU) SUMMARY. The government of Cristina Fernandez de Kirchner has said it intends to push for congressional approval of new federal broadcasting legislation. The current Broadcasting Law was passed by decree in 1980 by the military dictatorship. During the last 25 years of democracy, a handful of attempts to introduce new legislation failed. Numerous amendments served to create the country's current media picture. Although media organizations recognize the need to update the legislation, they are skeptical about the bill's intent and outcome. The initiative comes just as the GoA has stepped up its public criticism of the media and taken measures seen as a means of imposing pressure, especially on the dominant conglomerate, the Clarin Group (reftel). The government has held its first rounds of consultations with sectors interested in broadcasting. Reflecting the perceived stakes involved, the government official in charge of reforming the law, which will take months, called this "the mother of all battles" for the Fernandez de Kirchner administration. END SUMMARY.

UPDATE OF "DIRTY WAR" BROADCASTING LAW - OVERDUE

12. (SBU) Act 22285 on Federal Broadcasting was introduced by the "Dirty War" military dictatorship in September 1980. The law is outdated in many ways. It states, for instance, that the Federal Broadcasting Committee (COMFER), the ultimate authority in charge of enforcing the law, is to be manned by one representative from each of the three armed forces that was running the country at the time. The impracticality of that clause has led various subsequent administrations to appoint trustees at COMFER, leaving it in full civilian government control. The de facto takeover of COMFER by the national government also leaves the provinces with no say on the way airwaves are distributed throughout the country and results in highly centralized decision-making. COMFER has also failed to set up a master plan on the use and misuse of frequencies, turning a blind eye to the proliferation of hundreds of radio stations working extra-legally or on makeshift interim permits.

13. (SBU) Most of the 270 amendments to the Broadcasting Act were introduced in the 1990s, and served effectively to reshape the country's media landscape to allow for the creation of multimedia organizations, which the law initially banned. The reform allowed the Clarin Group to become the first media conglomerate in the country, owner of the country's best-selling newspaper as well as one of the four main broadcast TV stations. Also in the 1990s, legislation scrapped a ban on broadcast licenses being sold and/or transferred, leading to a multiplicity of ownership changes toward the end of the decade and to concentration in the hands of two main groups on the eve of the 2001-2002 economic crash: Clarin and CIE.

Although there is more media diversity on the scene now, a 2007 report by academics from the state-run University of Quilmes and University of Buenos Aires on the structure and concentration of cultural and information industries in Latin America concludes Argentina is above the Latin-American average regarding concentration of media ownership. While the right to access information is a fundamental right under the Argentine Constitution, the single state-owned TV channel reaches only 50% of the country's population, given its limited territorial coverage (35%), according to a report by the CELS human rights group.

¶4. (SBU) Critics argue that the law has become a confusing crazy-quilt of amendments introduced randomly to either suit short-term political interests or consolidate changes already extant in the market. Act 22285 barely accounts for the skyrocketing growth of cable television, one of Argentina's main media businesses, with over five million clients (and dominated by the Clarin Group). It provides no sound legal structure for coming next steps in support of rapid convergence of technologies and services. At present, the Act poses a conflict between telecommunication companies and broadcasters. While Act 22285 bars telecoms from entering the TV business, broadcasters are allowed to deliver triple play (telephone, television, Internet) convergence, therefore providing them a clear market advantage.

CFK GOVERNMENT CALLS FOR NEW LAW ...

¶5. (SBU) In April, the government announced an initiative to reform the law. Gabriel Mariotto, the recently-appointed head of COMFER and main architect of the reform, has not presented the government's official draft yet. Various drafts have circulated in Congress in recent years, but with little prospect of moving forward. The

Chairman in the Lower House's Committee on Communication and Information Technology, Manuel Baladron, said the ruling Victory Front majority would expedite passage of new government-sponsored legislation. A press report indicated COMFER is finalizing a draft that trims by half (24 to 12) the number of licenses a single broadcaster is entitled to have, and sets market share limits (35-40 percent) to avoid concentration.

¶6. (SBU) Moriotto has asserted to the press that the government's draft bill will closely adhere to a set of 21 points prepared four years ago by a group comprised of University of Buenos Aires academics, union leaders and the Coalition for Democratic Broadcasting, which advocates broadcasting reform to overcome perceived monopolistic practices. The "21 points" are a compilation of principles that emanate from a decades-long intellectual movement in the region that believe broadcasting and media should be predominantly "public," as opposed to "private" or "state." Seeking to occupy the middle ground between laissez-faire, pro-market ideals and a firm state grip, this group defines the right to communication as a universal human right that includes both freedom of the press and the right of the public to receive fair, balanced, and unbiased information. It calls for policies to avoid "the concentration of information" both in hands of the state or the private sector. Vertical or horizontal concentration in the media industry should be controlled and the broadcasting spectrum should split in three, in equal shares between public (state, but not governmental), private, and community media. The manifesto also calls for the implementation of quotas to guarantee nationally-produced contents on the air.

¶7. (SBU) The government has started a round of consultations with groups, including private media associations, union leaders, and academics from both public and private universities. Mariotto has announced that final drafting of the bill would only start once these talks are over. In what is taken by the media to be a political message, the GoA has brought in unionists to give their opinion on how the media should be regulated, with a prominent role given to Hugo Moyano, head of the CGT (General Confederation of Workers). Moyano has locked horns with Clarin for months over coverage of union activities.

... WHILE IT FUELS TENSION WITH THE MEDIA

¶8. (SBU) Despite its broad support for new broadcasting legislation, the media has become more critical of the administration's overall policy toward the press. Both former president Nestor Kirchner and his successor and wife, President Cristina Fernandez de Kirchner, are well known for antagonizing media companies, sometimes singling out journalists by name when they disliked their coverage. The latest round of conflict between the government and the media came on the heels of its conflict over export taxes with the farm sector, which went on strike. Shortly after the Kirchners criticized Clarin and its cable news channel, Todo Noticias (TN), of biased coverage of the strike, Mariotto announced a realignment of cable positions that would move TN to a less privileged channel. Most media observers see the revival of the broadcast legislation as another attempt by the administration to muzzle journalism and avoid criticism of the President and her Cabinet. Mariotto of COMFER has said that introducing new broadcast legislation amounts to "the mother of all battles" for Argentina's democracy.

¶9. (SBU) Separately, private media outlets have been outspokenly critical of the administration's announcement to give more clout to a Media Content Observatory that runs under the wing of the government's Anti-Discrimination Institute (INADI). The newspaper publishers' association, ADEPA (Asociacion de Entidades Periodisticas Argentinas), issued April 10 a statement which slams the Observatory idea and complains about "the increasingly irritating and more frequent" limitations on journalists.

¶10. (SBU) President Fernandez de Kirchner met April 25 with ADEPA and other media organizations, including the independiente media association, CEMCI (Comision Empresaria de Medios de Comunicacion Independientes), and the broadcasters' associations, ATA (Asociacion de Telerradiodifusoras Argentinas) and ARPA (Asociacion de Radiodifusoras Privadas Argentinas). She was accompanied by Mariotto and her Media Secretary Enrique Albistur (see para 12 on corruption). ADEPA presented the President with a statement of views on the new legislation. The document states, among other points, that: 1) broadcasting legislation should be restricted to regulation of the administration of technical aspects of frequencies and stay away from content, 2) content can be subject to post-publication confirmation and accountability, but should never be subject to pre-publication censorship, 3) the state should not interfere in editorial prerogatives, 4) abusive taxation of the media endangers freedom of expression, 5) the administration should fight illegal broadcasters, and 6) there should be objective rules in the allocation of state advertising. Media representatives present at the meeting confirmed that the President spoke in defense of press freedom, but said they are skeptical that they will have any impact on the shape of a bill, which they believe is already sitting in draft. They anticipate that the government's draft bill will be detrimental to independent media.

¶11. (SBU) Beyond the media's institutional response, there has been a noticeable shift toward more negative media coverage of Argentina's reality in general and the government's performance in particular. The shift is particularly visible in Clarin, whose front-page carries much clout when it comes to setting the daily agenda of public discussion in Argentina. It also coincides with a decline in President Fernandez de Kirchner's approval ratings, which, according to polls, has fallen below the 50 percent barrier just four months after taking office December 10.

12.(U) Cases of corruption in the Kirchner administration are becoming more visible in the mainstream media. In particular, a formal investigation has been launched against Casa Rosada Media Secretary Enrique Albistur, who is in charge of a 100 million dollar state advertising budget, a critical source of funds for Argentine media. He also oversees COMFER. The case involves allegations of directing about one million dollars of public funds to businesses of family and friends. While Albistur has drawn strong criticism from certain media for allegedly skewing the GOA press budget to friendly media, his case is now scoring headlines in leading media. Opposition Deputy Silvana Giudici, the head of the Lower House Committee on Freedom of Expression, has said that Albistur should resign to undergo court investigation. Albistur is claiming innocence. In the meantime, Albistur's advertising company is plastering posters around Buenos Aires, "Clarin Lies; Clarin Contaminates," as President Fernandez de Kirchner publicly critiques Clarin reporting.

Media contacts expect the battle against the media to continue until, as has been the history of the Clarin media conglomerate with the Kirchners, they negotiate and come to agreement on the terms of a truce.

COMMENT

¶13. (SBU) Due to the Kirchners' tendency to publicly vilify enemies for political gain, many suspect that the administration's effort to redraw Argentina's media picture is part of a short-term confrontational strategy designed to strong arm the media -- even though the legislation is consistent with the Kirchner's longstanding campaign against the last military dictatorship's legacy. The Fernandez de Kirchner administration has opened a major front of conflict with an institution the Argentine public considers one of its most credible institutions.

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